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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,162	10/09/2003	Shung-Lun Yu	3193/6	6411
23338	7590	10/04/2004	EXAMINER	
DENNISON, SCHULTZ, DOUGHERTY & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/681,162	Applicant(s) YU, SHUNG-LUN	
	Examiner Josiah Cocks	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed on 10/9/2003 are accepted by the examiner.

Claim Suggestions

2. In claim 4, line 3, it appears rather than "to connect the circuit board" applicant intended to recite --connected to the circuit board--. Applicant is requested to make this change for grammatical clarity.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2, 4, and 6 applicant uses the terms "relates to" to define structure (e.g. line 2 of claim 2 recites "the conductor relates to an optical fiber"). However, it is not clear what relationship is being defined when applicant recites "relates to." As best can be determined, applicant intended to recite --is--. For instance in claim 2, applicant is thus intending to recite that --the conductor is an optical fiber...--. For the purpose of an examination on the merits, the

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terms "relates to" in each of claims 2, 4, and 6 have been regarded as --is--. Correction is required.

Claim 8 recites the limitation "the musical note" in line 4. There is insufficient antecedent basis for this limitation in the claim. Applicant has not previously identified a musical note or any device capable of producing a musical note. For the purpose of an examination on the merits, this claim has been regarded as reciting --a musical note--.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,477,249 to Ruzek et al. ("Ruzek") in view of U.S. Patent No. 3,744,957 to Wight ("Wight").

Ruzek discloses in Figures 1-3 an electronic switch for a candle similar to that recited in applicant's claims 1-3 and 7-8. The candle (1) of Ruzek includes a wick (4) and a musical member (3) located at the base of the candle. The musical member (3) includes a circuit board (13) containing electronic devices (see Fig. 2) including a photosensitive element (20), which receives a signal from an optical fiber (22) that runs alongside the wick. The structure of the

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electronic and photosensitive devices recited in claim 2 is considered to be present in the electronic and photosensitive devices shown in Fig. 2 of Ruzek.

Ruzek does not disclose an embedded metal disk in the upper part of the candle.

Wight teaches a candle that is analogous to that of Ruzek. In Wight the candle includes an embedded metal disk (32) with a printed pattern with a central hole for a wick (28) to pass through.

Therefore, in regard to claims 1-3 and 7-8 it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the candle of Ruzek to incorporate the disk of Wight for the desirable purpose of providing an advertising message that functions of the life of the candle (see Wight, col. 2, lines 18-27).

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruzek in view of Wight as applied to claim 1 above, and further in view of U.S Patent No. 5,807,096 to Shin et al. ("Shin")

Ruzek in view of Wight teach all the limitations of claim 4 except for a magnet twisted pair cable.

Shin teaches a candle that is analogous to that of Ruzek. In Shin a transmitting means (12) is either an optical fiber or any other suitable material for transmitting heat or light to a circuit board located at the bottom of the candle (see col. 3, lines 1-5). The examiner considers that a person of ordinary skill in the art would reasonably understand from this teaching in Shin that other materials such as a magnet twisted pair cable could be selected to the conductor for the

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purpose of transmitting a signal to the circuit board and that this selection is simply a matter of design choice

Allowable Subject Matter

8. Claims 5 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Lin ('269), Lin ('119), Lee, Chuang, Song and French Patent No. 2 637 721 are included to further show the state of the art concerning candles with electronic components.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is

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(703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
September 23, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749